

**STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION**

<b>In the Matter of:</b>	)	<b>Docket 03-CRS-01</b>
<b>Proposed Rulemaking Pertaining to</b>	)	
<b>Data Collection for Qualified Departing</b>	)	
<b>Load CRS Exemptions</b>	)	
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**COMMENTS OF THE UNIVERSITY OF CALIFORNIA  
AND THE CALIFORNIA STATE UNIVERSITY  
ON THE PROPOSED REGULATIONS FOR IMPLEMENTATION OF THE  
CALIFORNIA PUBLIC UTILITIES COMMISSION'S DEPARTING LOAD  
SURCHARGE DECISION**

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For  
THE UNIVERSITY OF CALIFORNIA AND  
THE CALIFORNIA STATE UNIVERSITY

July 21, 2003

## **I. INTRODUCTION**

The University of California and the California State University (UC/CSU) hereby submit comments on the California Energy Commission's (Energy Commission's) proposed regulations for implementation of the Cost Responsibility Surcharge (CRS) exemptions for departing load (DL) customers, as set forth in the California Public Utilities Commission Decision 03-04-030 (CPUC Decision). It appears that there is a discrepancy between the Energy Commission's proposed implementation of the UC/CSU set-aside cap and the CPUC Decision. UC/CSU respectfully request that the Energy Commission consult with the CPUC prior to adoption of the regulations in order to avoid conflicting interpretations.

## **II. DISCUSSION**

Based on discussions at the July 16, 2003 Workshop on the Energy Commission's proposed regulations, UC/CSU understand that the Energy Commission regulations would include within the 165 MW UC/CSU set-aside cap all UC/CSU small, ultra-clean projects, as defined in the CPUC Decision Ordering Paragraph 7. However, UC/CSU believe that the CPUC Decision orders that any exemptions associated with these projects should not count against the UC/CSU set-aside cap.

Ordering Paragraph 11 of the CPUC Decision provides that UC/CSU shall be granted a set-aside within the caps set forth in Ordering Paragraph 10. (CPUC Decision, Slip.Op. at 66.) Ordering Paragraph 10 caps the exemptions adopted in Ordering Paragraphs 8 and 9 at 3,000 MW. The Ordering Paragraphs 8 and 9 exemptions are for (1) large ultra-clean DL that is over 1 MW in size and meets all criteria in PUC section 353.2 (§ 8), and (2) DL other than that defined in Ordering Paragraphs 4-8 (§ 9). The Ordering Paragraph 9 exemption is capped at 1,500 MW. Ordering Paragraphs 4 through 8 set forth exemptions for certain grandfathered DL

(¶¶ 4-5), certain biogas digester DL (¶ 6), and certain ultra-clean DL under 1 MW (¶ 7). Therefore, In Ordering Paragraph 10, the CPUC provided for three groups of exemptions, (1) the Ordering Paragraph 8 large ultra-clean exemption which expires when the 3,000 MW total DL surcharge cap is reached, (2) the Ordering Paragraph 9 catch-all exemption which is cumulatively capped at 1,500 MW and to which the UC/CSU set aside of 165 MW applies, and (2) the Ordering Paragraph 4 through 7 projects.

Ordering Paragraph 11 specifically provides that UC/CSU are granted a set-aside “within the caps discussed in Ordering Paragraph 10”. The caps established in Ordering Paragraph 10 are the caps applicable to the catch-all provision in Ordering Paragraph 9. The CPUC imposed these caps to address concerns regarding too much non-renewable generation and the UC/CSU set aside was reinstated specifically because the CPUC adopted the Ordering Paragraph 9 caps. (See, CPUC Decision, slip.op., at 55.)

Consequently, UC/CSU believe that the UC/CSU set-aside cap only applies to UC/CSU projects that fall into the Ordering Paragraph 9 catch-all category. UC/CSU believe that projects that meet the Ordering Paragraph 7 definition should not be counted within the UC/CSU set-aside cap as proposed by the Energy Commission.

### **III. CONCLUSION**

In order to provide clarity for UC/CSU and for all other DL that would be affected by the calculation of the cumulative 3,000 MW cap, UC/CSU respectfully request that the Energy Commission consult with the CPUC to determine a consistent application of the Commission Decision.

## PROOF OF SERVICE

I, Jack P. McGowan, declare that on July 21, 2003, I served the attached **Comments Of The University Of California And The California State University On The Proposed Regulations For Implementation Of The California Public Utilities Commission's Departing Load Surcharge Decision**, via electronic mail to the attached service list in CPUC Rulemaking R.02-01-011, and to the following addresses:

[dhouchk@energy.state.ca.us](mailto:dhouchk@energy.state.ca.us)  
[stomashe@energy.state.ca.us](mailto:stomashe@energy.state.ca.us)

In addition, I deposited one copy in the United States mail at San Francisco, CA, first class postage thereon fully prepaid, and addressed to the following:

**CALIFORNIA ENERGY COMMISSION  
DOCKET UNIT, MS-4  
Attn: Docket No. 00-AFC-4  
1516 Ninth Street  
Sacramento, CA 95814-5512**

I declare under penalty of perjury that the foregoing is true and correct.

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(Jack P. McGowan)